



# Agenda Item # 1

## BOA-002541-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

133 Eaton Square

**Applicant / Agent:**

Richard and Mellie Noblet

**Property Owner:**

Richard and Mellie Noblet

**Current Zoning:**

R-3, Multi-Family Residential Suburban

**Future Land Use:**

Low Density Residential

**Case Numbers:**

6529/6394

**Unified Development Code Requirement:**

- A 25-foot side street side yard setback in an R-3, Multi-Family Residential Suburban District.

**Board Consideration:**

- To allow the construction of a garage less than ten feet (10') from a side street side yard property line in an R-3, Multi-Family Residential Suburban District.

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**BOARD OF ADJUSTMENT**  
**VICINITY MAP - EXISTING AERIAL**



The site is surrounded by residential units.

APPLICATION NUMBER	6529	DATE	August 7, 2023
APPLICANT	Richard and Mellie Noblet		
REQUEST	Side Street Side Yard Setback Variance		



## SITE HISTORY

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On February 4, 1965, the Planning Commission approved the rezoning from R-1, Single-Family Residential District, to R-3, Multi-Family Residential District for the area now known as Eaton Square Subdivision. In June, 1965, a Special Exception Variance request was heard by the Board for the area to allow a 100-unit apartment complex, but the Board decided that the request should be heard by the Planning Commission. The property was subsequently rezoned by City Council approval, but the apartment complex was never built. The site retained its R-3 classification with the adoption of the Zoning Ordinance in 1967.

In February, 1969, the Planning Commission tentatively approved Bixler Place Subdivision, with final approval being granted in June, 1969. That subdivision was recorded as the current Eaton Square Subdivision.

The subject site was granted a Side Street Side Yard Setback Variance in June, 2021 to allow construction of a garage less than 25 feet from a side street side yard property line, but the project was never started and the variance expired.

## STAFF COMMENTS

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### Engineering Comments:

If the proposed variance is approved the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit (Single Family Residential Affidavit) be submitted through the CSS Portal.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

### Traffic Engineering Comments:

No comments.

### Urban Forestry Comments:

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

## **Fire Department Comments:**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

## **Planning Comments:**

The applicant is requesting a Side Street Side Yard Setback Variance to allow the construction of garage less than ten feet (10') from a side street side yard property line in an R-3, Multi-Family Residential Suburban District. While the Unified Development Code (UDC) requires a 20-foot side street, side yard setback in an R-3, Multi-Family Residential Suburban District, the recorded plat requires a 25-foot side street, side yard setback.

The entire application packet is available via the link on Page 1.

The subject site is within a single-family residential subdivision that is zoned R-3, and is surrounded by R-3 zoning to the East and South, and by R-1, Single-Family Residential Suburban.

This request is essentially the same as the one which the Board approved for the subject site in June, 2001, except this request is for the proposed garage to be two (2) feet closer to the side street (Old Shell Road) side yard property line. In the previous case, the Board granted the request to allow a garage 10.5 feet from the side street, side yard property line. The applicant now proposes to construct a garage 8.5 feet from the side street, side yard property line; hence this variance request. It should be noted that, if approved, a subdivision application (and recording thereof) will be required to allow the setback line along Old Shell Road

The site plan submitted with the application indicates the proposed structure is to be within 8.5 feet of the Old Shell Road side street side yard property line at its closest point. Due to the angle at which Old Shell Road adjoins the site, only a very small portion of the proposed garage would exceed the 10.5-foot setback in the previously approved variance.

The site plan indicates the rear yard setback for the proposed dwelling addition to be at the 7.5-foot drainage and utility easement. As the rear yard setback required by the Unified Development Code is actually ten (10) feet, the site plan should be revised to indicate compliance with the rear yard setback requirement. If the addition will not comply with the required ten (10)-foot rear yard setback, the application must be heldover for revised notification and advertising.

The subject residence does not appear to have been built with a garage. There appears to be adequate area available adjacent to the North side toward the front of the dwelling in which a garage of the size proposed could be constructed meeting both the 25-foot front yard and side street side yard setbacks. However, this location may not be compatible with the existing interior lay-out of the dwelling.

The request at hand is similar in nature to others in this area of Spring Hill where relief from the required setbacks has been sought to allow the construction of walls and other structures, including the 2021 approval for the subject site.

## VARIANCE CONSIDERATIONS

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### Standards of Review:

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### Considerations:

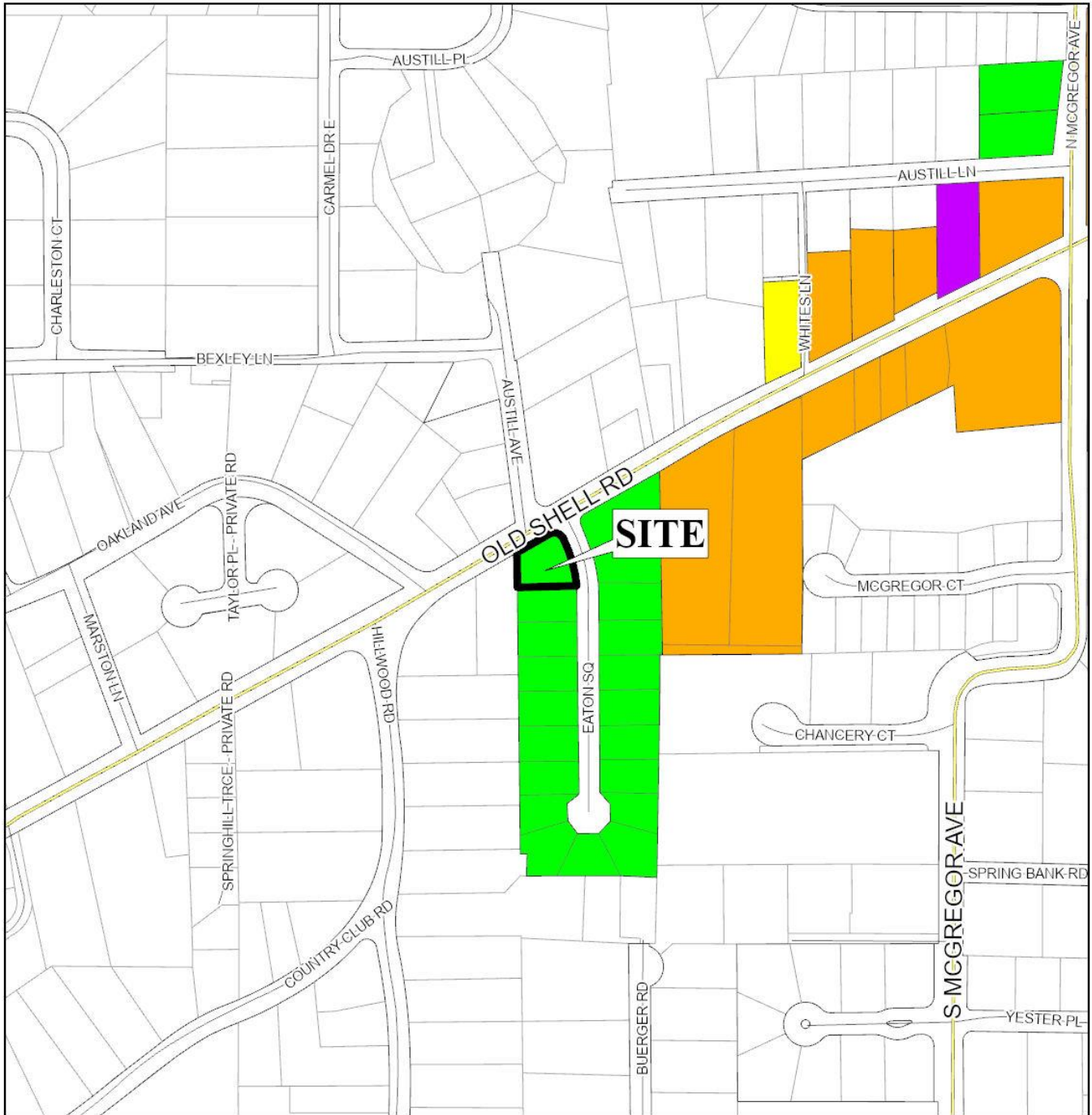
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

The following conditions are needed:

- 1) Submission of a ten (10)-foot rear yard setback;
- 2) Submission and recording of a subdivision application to alter the recorded setback line along Old Shell Road.

# LOCATOR ZONING MAP



APPLICATION NUMBER 6529 DATE August 7, 2023

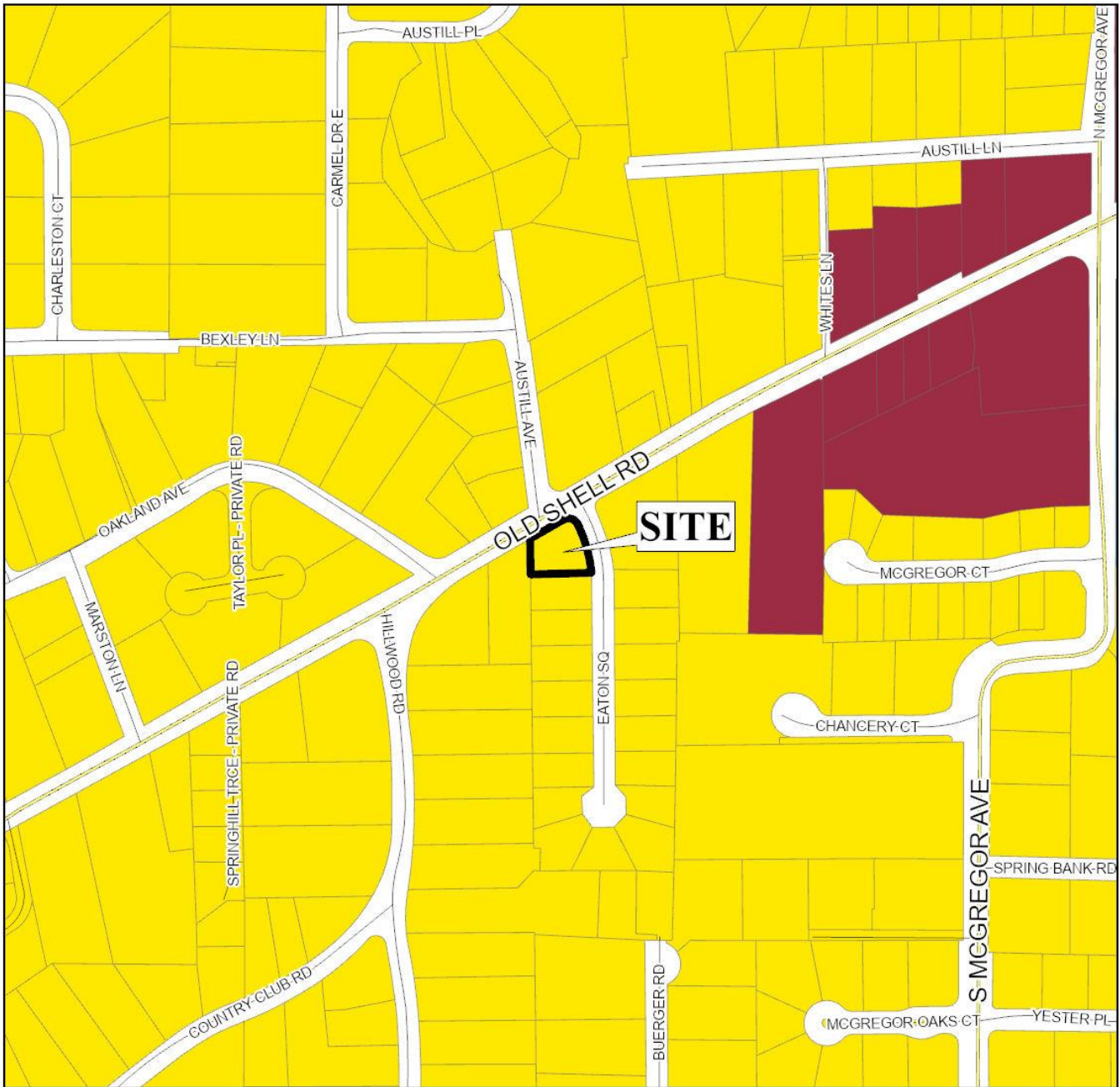
APPLICANT Richard and Mellie Noblet

REQUEST Side Street Side Yard Setback Variance



NTS

# FLUM LOCATOR MAP



APPLICATION NUMBER 6529 DATE August 7, 2023

APPLICANT Richard and Mellie Noblet

REQUEST Side Street Side Yard Setback Variance

- |   |  |  |  |
|---|--|--|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: darkred;">■</span> Neighborhood Center - Traditional | <span style="color: brown;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: orange;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban       | <span style="color: lightgrey;">■</span> Light Industry  | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: magenta;">■</span> Downtown                 | <span style="color: pink;">■</span> Traditional Corridor                 | <span style="color: purple;">■</span> Heavy Industry     |  |
| <span style="color: red;">■</span> District Center              | <span style="color: orange;">■</span> Mixed Commercial Corridor          | <span style="color: cyan;">■</span> Institutional        |  |



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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APPLICANT Richard and Mellie Noblet

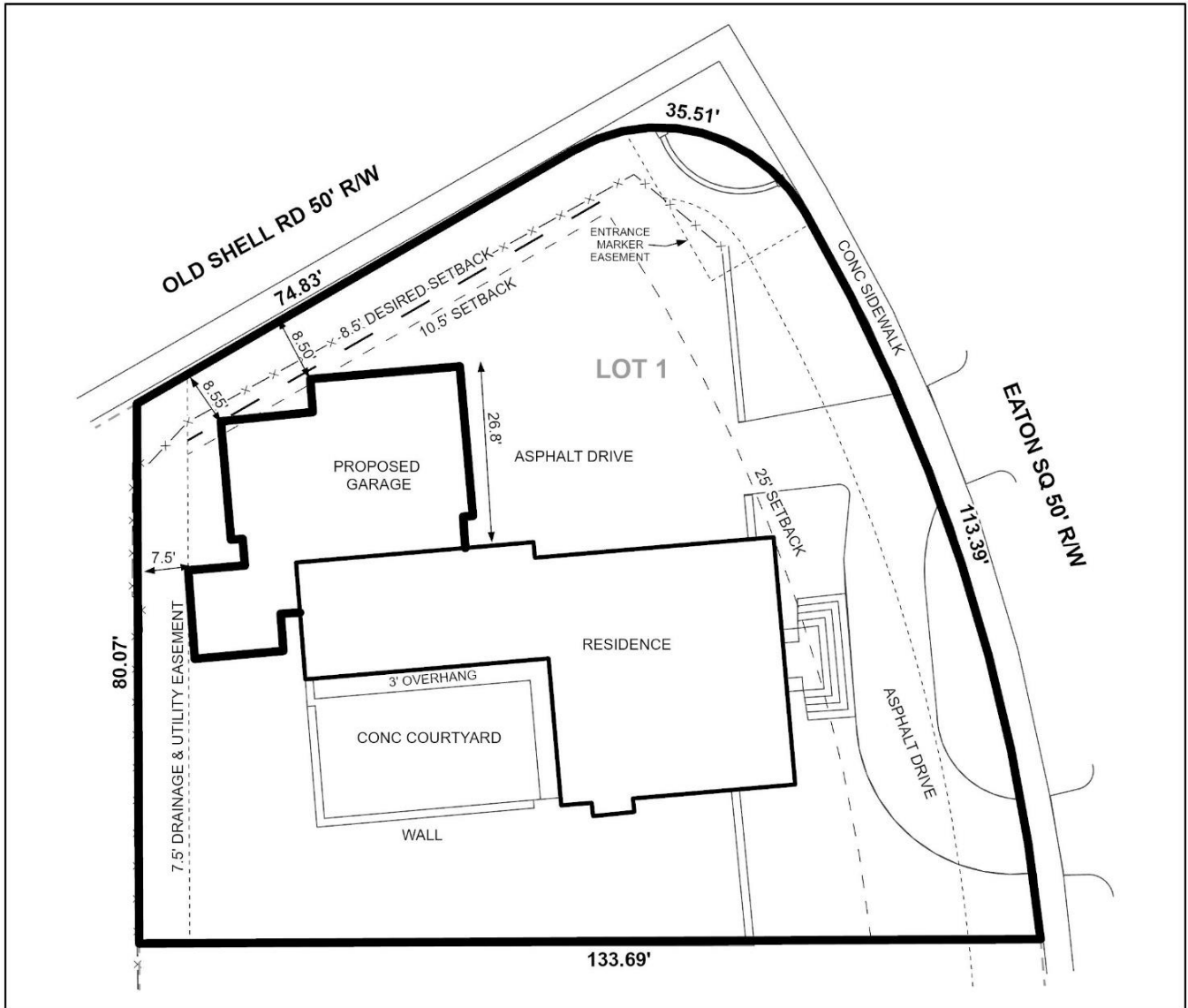
REQUEST Side Street Side Yard Setback Variance

<span style="color: cyan;">■</span> R-A	<span style="color: green;">■</span> R-3	<span style="color: cyan;">■</span> B-1	<span style="color: orange;">■</span> B-2	<span style="color: blue;">■</span> B-5	<span style="color: lightblue;">■</span> ML	<span style="color: gray;">■</span> I-2	<span style="color: lightgreen;">■</span> OPEN	<span style="color: pink;">■</span> T-3	<span style="color: purple;">■</span> T-5.2
<span style="color: white;">■</span> R-1	<span style="color: magenta;">■</span> R-B	<span style="color: tan;">■</span> T-B	<span style="color: red;">■</span> B-3	<span style="color: gold;">■</span> CW	<span style="color: teal;">■</span> MH	<span style="color: green;">■</span> PD	<span style="color: orange;">■</span> SD	<span style="color: purple;">■</span> T-4	<span style="color: darkpurple;">■</span> T-6
<span style="color: yellow;">■</span> R-2	<span style="color: peachpuff;">■</span> H-B	<span style="color: purple;">■</span> LB-2	<span style="color: brown;">■</span> B-4	<span style="color: lightblue;">■</span> MM	<span style="color: lightpurple;">■</span> I-1	<span style="color: yellow;">■</span> MUN	<span style="color: orange;">■</span> SD-WH	<span style="color: purple;">■</span> T-5.1	






# SITE PLAN



The site plan illustrates the existing building, setbacks, easements, and proposed garage.

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ZONING DISTRICT CORRESPONDENCE MATRIX			LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A															
ONE-FAMILY RESIDENCE	R-1	■				■		■						□		
TWO-FAMILY RESIDENCE	R-2	■				■		■						□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■							□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■						□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■						□		
HISTORIC BUSINESS	H-B			■		■		■						□		
VILLAGE CENTER	TCD					■	■							□		
NEIGH. CENTER	TCD					■	■							□		
NEIGH. GENERAL	TCD					■								□		
DOWNTOWN DEV. DDD	T-6			■										□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□						□		
DOWNTOWN DEV. DDD	T-5.2			■		■								□		
DOWNTOWN DEV. DDD	T-4			■		■		□						□		
DOWNTOWN DEV. DDD	T-3			■		■								□		
DOWNTOWN DEV. DDD	SD-WH										○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○			○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■					□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■					□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■					□	○	
COMMUNITY BUSINESS	B-3				■				■				○	□	○	
GEN. BUSINESS	B-4			■					■				○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■				□	□	
LIGHT INDUSTRY	I-1									■				□	□	□
HEAVY INDUSTRY	I-2											■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

# Residential Land Use



## LOW DENSITY RESIDENTIAL (LDR)

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

